

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Agriculture and Forestry, Finland

Act on Import Controls of Animals and Certain Goods

(1277/2019)

By decision of Parliament, the following is enacted:

Chapter I

General provisions

Section 1

Scope of application

This Act lays down the supplementary provisions on the application of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law and rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation), hereinafter the Control Regulation, to official controls performed to verify the compliance with the rules laid down in points a to f and j of Article 1(2) when importing animals and goods to the European Union.

This Act also lays down the supplementary rules required by Regulation (EU) No 576/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 (*Pets Regulation*) on the official controls of non-commercial movement of pet animals at the external border of the European Union.

This Act shall also apply to official controls performed to verify the compliance with the national import requirements issued with respect to the areas referred to in points a to f and j of Article 1(2) of the Control Regulation, unless otherwise provided elsewhere by law.

This Act shall not apply when animals or goods are imported from a country outside the European Union which has a right based on European Union legislation or an agreement concluded with the European Union to operate on the internal market with respect to the animals and goods concerned.

Section 2

Official controls of national import requirements

The Control Regulation shall apply to official controls performed to verify the compliance with the national import requirements issued with respect to the areas referred to in points a to f and j of Article 1(2) of the Regulation, unless otherwise provided elsewhere by law.

Section 3

Definitions

In this Act:

- 1) *control authority* means the Finnish Food Authority, Customs and the authorities specified in section 7;
- 2) *point of entry* means a customs post at the external border of the European Union through which animals and goods that fall within the scope of the Control Regulation enter the territory of the European Union;
- 3) *border control post* means a border control post defined in Article 3(38) of the Control Regulation;
- 4) *other control point* means a control point referred to in point a of Article 53(1) of the Control Regulation;
- 5) *place of final destination* means a place of final destination referred to in point a of Article 51(1);
- 6) *food contact materials* mean materials and articles that are directly or indirectly in contact with food or that are intended to come into contact with food or can reasonably be assumed to come into contact with food;

7) *Member State* means a Member States of the European Union and a state which for the purpose of applying European Union legislation on the functioning of the internal market is treated in the same way as a Member State of the European Union as a result of an agreement concluded between the European Union and the state concerned.

Chapter 2

Authorities and their tasks

Section 4

Ministry of Agriculture and Forestry

The tasks of the Ministry of Agriculture and Forestry include the general guidance and monitoring of the implementation of the Control Regulation, Pets Regulation and this Act.

The Ministry of Agriculture and Forestry is responsible for the tasks assigned to the Member State in Articles 59–63 of the Control Regulation. The Ministry of Agriculture and Forestry designates the border control posts, other control points, places of final destination and travellers' points of entry and suspends or withdraws the designation.

Section 5

Finnish Food Authority

The Finnish Food Authority plans, guides and develops official controls within the scope of application of the Control Regulation, Pets Regulation and this Act. The Authority is responsible for the coordination and contacts with the Commission and with other Member States referred to in point (b) of Article 4(2) of the Control Regulation.

The Finnish Food Authority is responsible for the tasks assigned to the Member State and the competent authority concerning the official controls of animals and goods entering the Union, unless otherwise provided in this Act.

The Finnish Food Authority shall make the proposal to the Ministry of Agriculture and Forestry concerning the designation of border control posts, other control points and places of final destination and suspension and withdrawal of the designation, unless this task has been assigned to Customs in this Act.

Section 6

Customs

In addition to the provisions on the tasks of Customs laid down in the Control Regulation or elsewhere in this Act, Customs is responsible for:

- 1) official controls of animals and goods at points of entry;
- 2) guiding animals and goods to the border control post of the point of entry;
- 3) tasks specified in Article 65(2) of the Control Regulation;
- 4) tasks assigned to the competent authority concerning animals and goods exempted from official controls performed at border control posts under Article 48 of the Control Regulation, except for granting prior authorisations that are the precondition for their import;
- 5) tasks assigned to the Member States in Article 5(3) and (4) and Article 34(4) of the Pets Regulation and, together with the Finnish Food Authority, the task specified in Article 37 of the Pets Regulation;
- 6) official controls of food other than goods specified in point b of Article 47(1) of the Control Regulation;
- 7) official controls of food contact materials; and
- 8) official controls of transit goods referred to in point b of Article 47(1) of the Control Regulation at the border control post through which the goods leave the territory of the European Union.

Customs shall make the proposal to the Ministry of Agriculture and Forestry concerning the designation of border control posts, other control points and places of final destination and suspension and withdrawal of the designation when the official controls concern food other than goods specified in point b of Article 47(1) of the Control Regulation imported to the European Union. Customs shall make the proposal to the Ministry of Agriculture and Forestry concerning the designation of travellers' points of entry and suspension and withdrawal of the designation.

Section 7

Other authorities

The municipal food control authority is the competent control authority at landing sites for fish referred to in section 68a of the Act on the System of Sanctions and Control under the Common Fisheries Policy (1188/2014).

The authority under the Food Act (23/2006), Animal By-Products Act (517/2015) or Animal Diseases Act (441/2013) which controls an establishment or premises that is the place of destination is the competent authority of the establishment that is the place of destination with respect to animals or goods concerning which the provisions on the monitoring of their transport and arrival from the border control post to the establishment or premises in the European Union are laid down in a delegated regulation adopted under point (b) of Article 77(1) or Article 77(2) of the Control Regulation.

Section 8

Further provisions on the tasks of the control authorities

Further provisions on the tasks of the control authorities referred to in sections 5–7 may be issued by government decree.

Chapter 3

Official controls

Section 9

Control plan

The Finnish Food Authority is responsible for the coordination of the national control plan drawn up to guide and coordinate import controls as part of the multi-annual national control plan required in the Control Regulation. The Finnish Food Authority and Customs are responsible for drawing up the control plan with respect to the tasks assigned to them in the Act.

Section 10

Right of inspection and access to information

The provisions on official controls and other official activities concerning inspections and sampling are laid down in Articles 9–15 of the Control Regulation and Article 34 of the Pets Regulation. On premises used for residential purposes on a permanent basis, inspections and sampling may only be performed by the competent control authority or an authority providing executive assistance under this Act. Inspections and sampling may be performed only if this is necessary to establish facts that are relevant for the inspection. If it is not a question of an inspection of a vehicle performed in direct relation to entry to the customs territory of Finland or the territory of a

special fiscal territory belonging to it, inspections on premises used for residential purposes on a permanent basis may only be performed if there is cause to suspect that the requirements concerning imports referred to in the Control Regulation, Pets Regulation or this Act have been or are violated by an act punishable under the law which may lead to a sentence of imprisonment.

Notwithstanding secrecy provisions, the competent control authority has the right to obtain free of charge information necessary to perform official controls referred to in subsection 1 from the state and municipal authorities and operators referred to in the Control Regulation and Pets Regulation and other parties to whom the requirements laid down in this Act or European Union legislation apply.

In addition, notwithstanding secrecy provisions, the Finnish Food Authority and Customs have the right to obtain free of charge information from the register referred to in section 46 of the Act on the Enforcement of a Fine (672/2002) necessary for imposing a penalty payment related to import controls.

Section 11

Analysis of official samples

Samples taken for official controls shall be processed and analysed at the Finnish Food Authority, Customs Laboratory or an official laboratory designated by the Finnish Food Authority or Customs.

Section 12

Executive assistance

The provisions on the obligation of the police to provide executive assistance are laid down in chapter 9, section 1 of the Police Act (872/2011). The provisions on executive assistance by Customs are laid down in section 100 of the Customs Act (304/2016), on executive assistance by the Border Guard in section 77 the Border Guard Act (578/2005), and on executive assistance by rescue authorities in section 50 of the Rescue Act (379/2011).

The Finnish Food Authority may provide executive assistance to Customs in special tasks related to official controls.

Where necessary, the municipal veterinarian shall provide executive assistance to Customs in tasks related to official controls.

If there is cause to suspect that an animal or goods have been imported in such a way that the requirements for imports have not been complied with, the municipal veterinarian shall provide executive assistance, if necessary, to the Finnish Food Authority and Customs by performing an inspection of the animals or goods, assisting in performing an inspection, or performing tasks related to the implementation of measures targeted to the animals or goods.

Section 13

Disclosure of confidential information to another authority

Notwithstanding secrecy provisions, the Finnish Food Authority may disclose information from a document or the Authority's personal data file that is necessary for;

- 1) prosecution, police and customs authorities for the purpose of investigating an offence;
- 2) Regional State Administrative Agency, Border Guard, municipal veterinarian, municipal food control authority and Tax Administration for the purpose of managing their statutory tasks;
- 3) foreign institutions, bodies and inspectors if so required by European Union legislation or other international obligation binding on Finland.

Chapter 4

Enforcement measures and sanctions

Section 14

Orders, prohibitions and other administrative measures

If an animal or goods or their imports do not fulfil or it is suspected that they do not fulfil the requirements set for imports, the competent control authority shall undertake measures laid down in the Control Regulation, Pets Regulation or this Act.

The provisions on the isolation or quarantine of an animal or goods are laid down in Articles 65–67 of the Control Regulation and Article 35 of the Pets Regulation. Further provisions on the requirements to be set for the isolation or quarantine of animals may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 15

Penalty payment of import controls

The Finnish Food Authority or Customs may impose a penalty payment of at least EUR 300 and no more than EUR 5,000 on the operator responsible for the import of an animal or goods if the operator:

- 1) neglects the obligation to present an animal or goods for official controls under Article 56(4) of the Control Regulation or Article 34(2) of the Pets Regulation;
- 2) presents an animal or goods for official controls referred to in subsection 1 on false grounds;
- 3) presents a forged import document or test result related to import requirements;
- 4) imports or tries to import an animal or goods contrary to the rules of the European Union or adopted by the Member States to apply Union legislation concerning areas listed in Article 1(2) of the Control Regulation, conditions laid down in Chapter II or III of the Pets Regulation, or national import requirements set in the legislation;
- 5) transports animals other than pets or causes animals other than pets to be transported contrary to Article 3 of Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 in a way likely to cause injury or undue suffering to them or in non-compliance with the conditions referred to in Article 3;
- 6) otherwise neglects the obligation to find out in advance the import requirements referred to in paragraph 4.

The nature, extent of harm and recurrence of the conduct shall be taken into account in assessing the amount of the penalty payment. The payment may be waived or a payment that is less than the minimum amount may be imposed if the act can be considered minor and waiving the payment or imposing a payment that is less than the minimum amount can be considered reasonable in view of the type, recurrence and deliberateness of the negligence and other conditions. The penalty payment is payable to the State.

A penalty payment may not be imposed on a natural person who is suspected of the same act in a criminal matter in which pre-trial investigation, consideration of charges or a trial is pending or to whom a final judgement has been rendered for the same act. If a penalty payment has been imposed on a natural person, no punishment may be imposed by a court of law for the same act.

A penalty payment shall not be imposed if more than six months have elapsed since the act. The penalty payment becomes time-barred in five years from the date on which the final decision concerning the penalty payment was given. The provisions on the enforcement of the penalty payment are laid down in the Act on the Enforcement of a Fine.

Section 16

Notice of a conditional fine or enforced compliance

The control authority may intensify an order or prohibition issued under European Union legislation by a notice of a conditional fine or a notice that the neglected measures will be taken at the expense of the negligent party.

The provisions on the notice of a conditional fine and notice of enforced compliance are laid down in the Act on Conditional Fines (1113/1990).

Section 17

Penal provisions

The penalty for a regulation offence is provided in chapter 46, section 1, subsection 1, paragraph 7 of the Criminal Code (39/1889) and for smuggling in chapter 46, section 4 of the Criminal Code.

Chapter 5

Miscellaneous provisions

Section 18

Protecting the identity of a person reporting an offence

If an actual or suspected violation is reported by a natural person to the control authority responsible for the control of the provisions concerned, the identity of the reporting person shall be kept secret if, based on the circumstances, disclosing the identity may be expected to cause harm to the person.

Section 19

Charges collected for services performed by a State authority

Charges for official controls performed by a State authority under European Union legislation or this Act shall be collected in accordance with the criteria laid down in the Control Regulation and the Act on Criteria for Charges Payable to the State (150/1992).

Further provisions on the national arrangements under Articles 79–82 of the Control Regulation and determining the amount of the charges may be issued by Decree of the Ministry of Agriculture and Forestry with respect to the Finnish Food Authority and by Decree of the Ministry of Finance with respect to Customs.

Section 20

Request for a review

Until the end of 2019 the provisions on requesting a review at an administrative court are laid down in the Administrative Judicial Procedure Act (586/1996). However, a decision of an administrative court may be appealed against only if the Supreme Administrative Court grants leave to appeal. From the beginning of 2020 the provisions on requesting a review at an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019).

A decision other than one concerning the penalty payment of import control may stipulate that the decision shall be complied with regardless of a request for a review, unless otherwise ordered by the reviewing authority. Appeals against decisions concerning animals shall be processed as urgent.

The provisions on requesting a review concerning a decision by Customs are laid down in the Customs Act. However, until the end of 2019 the Administrative Judicial Procedure Act (586/1996) and from the beginning of 2020 the Administrative Judicial Procedure Act (808/2019) shall apply to requesting a review concerning a decision by Customs made in controls under section 6, subsection 1, paragraphs 6 and 7 that is taken by virtue of Article 66 or point d of Article 138(2) of the Control Regulation.

The provisions on requesting a review of a decision on a charge imposed by a State authority are laid down in the Act on Criteria for Charges Payable to the State.

Section 21

Entry into force

This Act enters into force on 20 December 2019.

This Act repeals the Act on Veterinary Border Inspections (1192/1996) (*the repealed act*).

However, section 5 of the repealed act will remain in force until 20 April 2021.

The following statutes issued on the basis of the repealed act shall remain in force:

- 1) Decree of the Ministry of Agriculture and Forestry on poultry and other birds and their hatching eggs imported from countries outside the European Union (867/2008);
- 2) Decree of the Ministry of Agriculture and Forestry on certain live animals and their embryos and gametes imported from countries outside the European Union (866/2008);
- 3) Decree of the Ministry of Agriculture and Forestry on certain microbes, parasites and goods causing a risk of spreading animal diseases imported from countries outside the European Union (776/2019);
- 4) Decree of the Ministry of Agriculture and Forestry on composite food products subject to official controls performed at a border inspection post (1044/2019).